

Atty. Dkt. No. 025098-0701

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1-5, 38, and 42-49 are presently pending. Claim 38 is cancelled and claim 50 is currently being added.

The Examiner rejected claim 38 under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is believed this rejection is moot in view of the present amendment.

The Examiner rejection claims 38 and 46-49 under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-16 of U.S. Patent No. 6,472,537. The Applicant will submit a terminal disclaimer in the present case over U.S. Patent No. 6,472,537 if the claims in the present case are otherwise allowable in their present form.

Support for claim 50 is found, inter alia, at page 7, lines 15-16.

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Closing

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

Date June 9, 2004By Richard San Pietro

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